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Illinois Bell Telephone Company,)
AT&T Communications of Illinois, Inc.,)
CoreComm Illinois, Inc.,)
Covad Communications Company,)
MCI WorldCom Communications, Inc.,)
McLeodUSA Telecommunications Services, Inc.,)
NEXTLINK Illinois, Inc.,)
NorthPoint Communications, Inc.,)
Rhythms Netconnections and Rhythms Links, Inc.,)
21st Century Telecom of Illinois, Inc.,)
Ushman Communications, Inc., and)
Sprint Communications Company L.P.)
d/b/a Sprint Communications L.P.)
)
Joint Submission of the Amended Plan of Record)
for Operations Support Systems ("OSS"))

ICC Docket No. 00-0592

**Joint Brief on Exceptions of AT&T Communications of
Illinois Inc., CoreComm Illinois, Inc. and WorldCom, Inc.**

I. INTRODUCTION

AT&T Communications of Illinois, Inc. ("AT&T"), CoreComm Illinois, Inc. ("CoreComm") and WorldCom, Inc. ("WorldCom") (collectively referred to hereafter as "CLECs"), respectfully submit this Joint Brief on Exceptions in response to the Hearing Examiner's Proposed Order ("HEPO" or "Proposed Order") issued in the above-captioned proceeding on November 9, 2000. This Brief on Exceptions is submitted pursuant to the Rules of Practice of the Illinois Commerce Commission ("Commission"), 83 Ill Admin. Code Section 200.830, and the directives contained in the Proposed Order.

As discussed in further detail below, the CLECs take exception to the HEPO's conclusions and/or ask for clarification with respect to the following issues: Issue No. 2 Joint

Testing; Issue No. 4 Change Management Process – Outstanding Issue Solution (“OIS”); Issue No. 6 OSS Interface Availability; Issue Nos. 9, 16, 20, 24 and 40 Interface Development Rule; Issue No. 10 Plan of Record Agreement Documentation; Issue No. 13 Relaxed Customer Service Record Address Validation; Issue No. 18 Flowthrough; Issue No. 42 Unsolicited 865 Transactions; Issue No. 46 Hot Cuts; Issue No. 62 Directory Listing Ordering and Inquiry; Issue No. Issue No. 73(a) Availability of Unbundled Network Element Platform (“UNE Platform” or “UNE-P”) for new and second lines; and Issue 73(b) Implementation of the Carrier Access Billing System (“CABS”) for all UNEs and combinations of UNEs. In addition, the CLECs take exception to the HEPO’s failure to direct the Illinois Plan of Record (“POR”) to be amended to accurately reflect commitments that Ameritech has made in Illinois or the requirements that the HEPO would place on Ameritech if its conclusions are adopted by the Commission.

The conditions that this Commission placed on the Ameritech-SBC merger were in large measure intended to promote competition in Illinois, and that intent is nowhere more evident than in Paragraph 29. The three-phase process adopted by the Commission for designing and implementing enhancements to the Ameritech OSS systems has as its goal systems that conform to prevailing industry standards and thus support efficient competitive entry by CLECs. That end point will be attained, however, only if the detailed, point-by-point decisions on these complex issues are resolved with the overall procompetitive goal in mind.

By that measure, the Hearing Examiner’s Proposed Order in this case (HEPO) regrettably falls short. On a number of significant issues discussed below, the HEPO represent a “default” to the SBC/Ameritech position. It reaches these results through a variety of legal and factual missteps – for example, by disregarding the weight of the evidence; applying an inapt “legal”

standard; or crediting vague and unsubstantiated SBC/Ameritech claims that it is overburdened and preoccupied by its FCC commitments. This last claim by SBC/Ameritech is particularly unsupportable. As discussed in AT&T's Reply Comments, the FCC has made it abundantly clear that its conditions are intended to be a floor, not a ceiling, and it has rejected the notion that FCC obligations should serve as grounds for resisting obligations at the state level.¹ In effect, that is what SBC/Ameritech has done in a number of instances, however, and the HEPO has fallen into error in accepting SBC/Ameritech's positions.

The issues now before this Commission in many cases are issues that the CLECs have repeatedly identified as of highest priority over recent months (and even years), but Ameritech continues to resist the CLEC requests. These issues have a significant impact on Illinois CLECs' ability to provide efficient, competitive services to their customers. SBC appealed ardently to the Commission to approve its merger with Ameritech, in substantial part on the grounds that it would, through OSS enhancements, enhance the ability of CLECs to enter local markets. The Commission accepted SBC/Ameritech's commitment and its promises in approving the merger. The Commission is now confronted with the opportunity for decisive action in insisting that SBC/Ameritech's commitments are fully enforced and its promises fully realized.

II. EXCEPTIONS

Disputed Issue No. 2: Joint Testing

Exception: The Hearing Examiner's acceptance of SBC/Ameritech's proposal to make non-monitored joint testing available for only 10% of the total testing period is unreasonable and unsupported by the record. The CLECs need non-monitored

¹ The FCC stated, *inter alia*, that its "conditions shall have no precedential effect in any forum, and shall not be used as a defense by the Merging Parties in any forum considering additional procompetitive rules or regulations." Memorandum Opinion and Order, CC Docket No. 98-141, Appendix C, p. 1, n. 3 (released: October 8, 1999). See AT&T Reply Brief at pp. 6-8.

testing, and Ameritech has provided no reason why it cannot support both monitored and non-monitored transactions on an equal and adequate basis.

The single issue left in regard to SBC/Ameritech's proposed joint testing process (to be made available in March 2001) concerns the amount of time in which SBC/Ameritech will allow CLECs access to "non-monitored" joint testing. SBC/Ameritech has indicated that its joint testing proposal will include SBC/Ameritech manual monitoring of CLEC test transactions.² SBC/Ameritech has proposed to allow CLECs access to non-monitored test transactions during a limited window of time (which has yet to be determined) that will not exceed 10% of the total testing window. If the CLECs wish to request a higher or lower percentage of non-monitored transactions, they must request it through the time-consuming Change Management Process, but CLECs have no assurance that SBC/Ameritech will agree to any change to the 10% availability policy. The CLECs have requested that Ameritech allow monitored and non-monitored testing at all times in order to provide CLECs access to the form of testing that meets their needs.

The HEPO simply accepts SBC/Ameritech's proposal in its entirety. It rejects CLEC requests for unlimited non-monitored testing based on the belief that "monitoring will be beneficial" for startup CLECs attempting to build their first interface with Ameritech.³ The HEPO also finds Ameritech's offer to allow CLECs to "request" a higher percentage of non-monitored testing time through the Change Management Process to be "reasonable."⁴ The

² The type of monitoring that SBC/Ameritech plans on conducting was made clear during cross examination. First, once a CLEC sends an order across the interface to SBC/Ameritech, SBC/Ameritech will "stop the flow" of that electronic order through SBC/Ameritech's systems and manually review it. Tr. 670-72. After completing its review, SBC/Ameritech will allow the order to continue its normal flow through SBC/Ameritech's systems. Second, at the end of ordering process, when SBC/Ameritech determines whether an order is rejected or whether it should send a FOC, SBC/Ameritech will review the response that it generated to the CLEC before it is transmitted to the CLEC. Tr. 677-78. Thus, SBC/Ameritech would again be stopping the normal flow of its response to the CLEC.

³ HEPO, p. 32.

⁴ HEPO, p. 32.

CLECs take exception to this holding and reiterate their request simply that Ameritech be required to provide monitored and non-monitored testing to CLECs at all times.

The HEPO misses the mark on the joint testing issue. The CLECs are *not* objecting to monitored testing, although no CLEC here has indicated that it will use such testing. Instead, the CLECs merely contend that in light of the fact that *no Illinois CLEC* has ever requested monitored testing, and no CLEC in this case has requested monitoring, the only reasonable choice would be for SBC/Ameritech to allow non-monitored and monitored testing at all times. Putting aside 90% of testing time for monitored testing, which even the HEPO concedes is beneficial only in limited circumstances, is not reasonable. The choice should be with the CLEC – the party conducting the testing of its systems –whether to use monitored and non-monitored testing. SBC/Ameritech’s proposal unreasonably overrides and limits this choice by limiting CLECs desiring non-monitored testing to an extremely restricted test window.

As all the parties agreed, it is essential that the CLECs have access to a testing environment that mirrors production in order for them to gain results that are accurate and reliable. The problem with SBC/Ameritech’s proposal is that while SBC/Ameritech claims its testing environment “mirrors production,” its proposed monitoring *does not* take place in production. SBC/Ameritech has conceded this fact.⁵ Thus, the record is clear that when it engages in monitoring, SBC/Ameritech is *not* providing testing that mirrors production.

The CLECs do not dispute that could be “beneficial” in some circumstances. The HEPO, however, attaches overriding significance to this benefit, and it does so without justification. Even the HEPO recognizes that monitoring of test transactions is of benefit only in the limited

⁵ Tr. 672-73, 678.

circumstance of a startup CLEC's first attempt to build an interface with SBC/Ameritech.⁶ In fact, the record evidence in this case is that CLECs generally do *not* desire monitored testing. While SBC/Ameritech claims that "monitoring" is in place to aid CLECs, SBC/Ameritech's witness could not name one Illinois CLEC that has actually requested that monitoring be part of joint testing.⁷ And no Illinois CLEC has supported SBC/Ameritech's proposal to restrict non-monitored testing to at most 10% of the available test window. SBC/Ameritech has failed to explain why it cannot make non-monitored and monitored testing equally available to CLECs at all times. There is absolutely no record evidence that it cannot. In the face of this evidence, it is wholly unreasonable for the HEPO to ignore the needs of Illinois CLECs for non-monitored testing to be available on a reasonable basis.

There are good reasons why CLECs need non-monitored testing. First, the HEPO ignores the fact that monitoring *does not* occur in production. Certainly, monitoring interrupts and slows the movement of the test orders through SBC/Ameritech's systems. Although Ms. Cullen indicated that SBC/Ameritech would stop transactions for a matter of minutes, this stoppage could also be much longer depending on the size and complexity of a particular test. And even minutes matter in this context. Obviously, if the CLEC was engaging in a test with hundreds of orders, monitoring could severely slow the processing of its test orders.⁸ Thus, monitoring can skew CLEC test results.

⁶ HEPO, p. 32.

⁷ Indeed, SBC/Ameritech's witness Ms. Cullen could not name one Illinois CLEC that has requested review of its orders in testing. Tr. 682.

⁸ The HEPO improperly ignores this uncontested fact in concluding that "the window of non-monitoring should allow CLECs to adequately measure the intervals of OSS functions." When conducting testing, the CLEC may well wish to gain a clear indication of the processing intervals that might result in production. If so, the CLEC will certainly be anticipating that the performance intervals it receives from SBC/Ameritech in testing will hold equally true in production. However, the only way for the CLEC to be so assured is if monitoring does not occur.

Most importantly, SBC/Ameritech's proposal would make it impossible for CLECs to "mirror" the production environment in testing because the CLECs needing non-monitored testing will be forced to collect and send their test orders in a artificially restricted timeframe. Except to say that it will not exceed 10% of the total test period, SBC/Ameritech has not even indicated what the limited timeframe might be and whether it would be available on a hourly, daily or weekly basis.⁹ Thus, pursuant to SBC/Ameritech's proposal, a CLEC might have as little as perhaps one hour per week to cram through all of the test transaction its wishes to be non-monitored. As Ms. Cullen agreed on cross examination, this does not occur in production¹⁰ -- i.e., in production CLECs can choose the pace at which they send orders to SBC/Ameritech. A CLEC should be able to send its test orders at the pace expected in production. When sending non-monitored transactions, CLECs should be able to do so in a manner that will be consistent with the manner they will send real orders to Ameritech. By limiting the non-monitored testing window to a matter of hours per week, SBC/Ameritech is making it impossible for CLECs to do that. Although the HEPO acknowledges the fact that AT&T raised this argument, its final analysis simply ignores this important fact.

Finally, the HEPO unquestioningly accepts SBC/Ameritech's proposal to defer this issue to the Change Management Process (CMP). SBC/Ameritech's agreement to allow CLECs to "request" a higher percentage of non-monitored time through the CMP rings hollow. CLECs in this collaborative have requested a lifting of the 10% cap on non-monitored testing, and SBC/Ameritech has not only resisted but has litigated the issue all the way through Commission arbitration. The expedited arbitration process delineated in Condition 29 was intended to allow CLECs to receive prompt relief in regard to the OSS functions they believe are necessary to

⁹ SBC/Ameritech proposes to punt that decision to the CMP. Tr. 679 (Ms. Cullen).

support competition. By diverting issues to the Change Management Process, the HEPO severely dilutes this benefit to CLECs. There is no arbitration process delineated in the CMP. If SBC/Ameritech continues to refuse the CLECs' requests as to testing, there is little the CLECs can do at that point. In this regard, like so many others, the HEPO has undercut the intent of the Commission's merger conditions: To provide pro-competitive OSS on an expedited basis.

In short, the essential point the HEPO misses is that joint testing is intended to benefit the CLECs in Illinois, not SBC/Ameritech. The CLECs have requested in this arbitration that non-monitored and monitored testing be available at all times. SBC/Ameritech has offered no reason why it cannot do so. AT&T has provided specific language in its revised POR consistent with this request. See AT&T Revised POR, Attachment A hereto, p. 38. The HEPO unquestioningly, and unjustifiably, accepts SBC/Ameritech's position on this issue, and that error should be corrected by the Commission.

Proposed Language for Disputed Issue No. 2

Strike the first two full paragraphs appearing on page 32 of the HEPO (beginning with "The Commission believes that for many CLECs . . .") and insert the following language:

Although the Commission believes that monitored testing might be beneficial to CLECs in certain circumstances (e.g., for a startup CLEC who is making their first attempt at building an interface with Ameritech), we believe that monitored and non-monitored testing should be equally available to CLECs.

Joint testing allows the CLECs the ability to test interfaces and send orders over those interfaces before testing them in production. Thus, it is essential that the testing environment mirrors production in all respects. Otherwise, the CLECs are not assured that the results of testing will hold true in production. The CLECs have provided evidence that monitored transactions could affect the intervals by which Ameritech responds to orders in testing.

¹⁰ Tr. 675-676.

The record leads us to conclude that monitored testing could skew the results of testing. Ameritech's witness, Ms. Cullen, conceded that when monitoring test transactions Ameritech actually stops the flow of the order for some undetermined amount of time. We are concerned that if a CLEC is sending a great volume of test transactions at one time, this monitoring could significantly affect the intervals in which CLECs receive a response from Ameritech to a CLEC order. When testing a CLEC should be able to rely on the intervals it receives from Ameritech in planning for its use of a particular interface in production. We find Ameritech's proposal also unreasonable because it would force CLECs desiring non-monitored testing to "cram" their test orders into a still undefined, but certainly restricted, period of time. This type of cramming does not exist in production, where a CLEC can choose to send its orders to Ameritech at whatever pace it anticipates.

Most importantly, we stress the fact that the intent of joint testing is to benefit the CLECs. Whatever its benefits might be, no CLEC in Illinois or in this case has requested monitored testing. All the CLECs commenting on this issue requested the ability to conduct non-monitored testing. Ameritech has provided no reason why it could not provide monitored and non-monitored testing available to CLECs at all times. Thus, we find it reasonable to require Ameritech, when it provides joint testing in March of 2001, to make monitored and non-monitored testing available to CLECs at all times. We therefore order Ameritech to incorporate into its Revised POR the language AT&T has provided its revised POR. See AT&T Revised POR, p. 38.

Disputed Issue No. 4: Change Management Process – Outstanding Issue Solution

Exception: The HEPO unreasonably adopts SBC/Ameritech's arbitrary quorum requirement for an OIS vote. The HEPO misapplies the logic and intent of Roberts Rules of Order and applicable case law. For the reasons outlined below, the Commission should adopt the CLEC proposal concerning the OIS voting process.

The HEPO concludes that "[i]n the final analysis, we find AI proposal [Sic] that a quorum be required consisting of 50% of those CLECs qualified to vote on a particular feature, or 8 CLECs, whichever is less comports with sound legal principles." (HEPO, p 38). This conclusion is based on a fundamental misapprehension of the OIS voting process as well as a fundamental misapprehension of a critical aspect of the rule it purportedly adopts as a guide. The Commission should reject the conclusion of the HEPO and adopt the CLEC position with respect to this issue.

The OIS voting process allows affected CLECs to block or delay an SBC/Ameritech interface change that could negatively affect the CLECs' ability to use a particular interface. From the CLECs' perspective, the OIS voting process is an integral part of the Change Management Process – it affects several different aspects of change. The OIS voting process gives CLECs a direct voice in the change management process that has been previously unavailable.

The CLEC position concerning the OIS vote is that a majority of qualified CLECs that participate in an OIS vote should control the outcome of the vote. (HEPO, p. 34). Rather than accept the CLECs' fair and simple proposal for the voting process, the HEPO instead relies on Roberts Rules of Order for the proposition that a quorum of qualified CLECs must be present in order to conduct an OIS vote. However, the HEPO misapplies the logic of Roberts Rules in a critical respect: Under Roberts Rules, if no quorum is achieved, no parliamentary business may be conducted - in other words, nothing happens. In the case of an OIS vote, if no vote occurs, then SBC/Ameritech is free to implement a flawed change to its OSS interface. Roberts Rules do not address this situation. The HEPO ignores this critical "all or nothing" aspect of Roberts Rules. Instead, through the imposition of an arbitrary quorum requirement, the HEPO allows SBC/Ameritech to unilaterally implement a flawed change to its OSS interface, possibly causing a process failure for one or more CLECs. This, of course, is SBC/Ameritech's clear intent for insisting on the quorum in the first place. Certainly, the record in this case contains no plausible articulation for having such a requirement.

An OIS vote is not an act of a representative body and the Hearing Examiner's reliance on Roberts Rules is completely inapposite for that reason. Again, the representative bodies do not face the problems of CLECs using the OSS of their major competitor. Indeed, this critical

distinction is clearly discussed in the case setting forth the "rule for all time" cited in the HEPO, but ignored. In *United States v. Ballin, et al.*, the Supreme Court noted a key aspect of the applicability of a quorum requirement generally. The court stated that there is

a distinction between what is necessarily a meeting of a representative and a constituent body in these words: 'There is a distinction taken between a corporate act to be done by a select and definite body, as by a board of directors, and one to be performed by the constituent members. In the latter case, a majority of those who appear may act; but in the former, a majority of the definite body must be present, and then a majority of the quorum may decide.'

United States v. Ballin, et al., 144 U.S. 1, 8 (1892). In other words, a quorum is appropriate for a representative (parliamentary) body, but not a body of "constituents." The CLECs participating in an OIS vote are not representing a larger body of CLECs; rather they are participating in order to protect their ability to effectively exchange preordering, ordering and repair and maintenance information with the vendor of critical inputs to their businesses, SBC/Ameritech. The HEPO seems to recognize this fact by stating that "[the OIS vote is presumed to be one of a body - the body of qualified CLECs. As such, the outcome of the vote should be, as nearly as possible, representative of that body." (HEPO, p 38). The fact is, the participants on an OIS vote will always be "one of a body" since only qualified CLECs may vote. Qualified CLECs are the "constituent body" contemplated by the Supreme Court. There is no "representation" by the participants in an OIS vote. The only thing a quorum requirement can do is to *prevent* a vote by the constituent body -- nothing more.

All of the cases cited in the HEPO involve issues concerning representative bodies in a "legislative" setting, and, as clearly delineated above, are not applicable to the circumstances of an OIS vote. The HEPO has completely misapplied the reasoning of Roberts Rules. With this fatal flaw in the reasoning of the HEPO exposed, the entire basis for the finding of the HEPO is shredded.

The HEPO misapplies Roberts Rules in another respect: Roberts Rules clearly recognizes that in the absence of a by-law establishing a quorum, the quorum consists of those who attend the meeting. Roberts Rules of Order Revised, Section XI, Paragraph 64. 1915 Version, Public Domain, <http://www.constitution.org.ror/ror--00.htm>. Thus, contrary to the reasoning of the HEPO, the CLEC position in this case is entirely consistent with Roberts rules. The “by-law” which the HEPO imposes on CLECs in this case was unilaterally imposed by SBC/Ameritech. This hardly fits the spirit and intent of Roberts Rules and the democratic process.

The HEPO ignores Roberts Rules in still another respect. Although the HEPO recognizes that a quorum should reflect a number that can be depended upon to attend (HEPO, p. 37), the HEPO disregards the recommendation of the Staff (Initial Comments of the Staff, pp. 25-26) and the CLECs and instead accepts SBC/Ameritech’s arbitrary quorum number without further discussion. Roberts Rules are quite clear: A quorum should only be a small percentage of the total membership. Roberts Rules of Order Revised, Section XI, Paragraph 64. 1915 Version, Public Domain, <http://www.constitution.org.ror/ror--00.htm>.

In addition, the record in this case demonstrates that SBC/Ameritech's quorum requirement is unworkable because there is no simple means of establishing a quorum for an OIS vote. Only SBC will possess the list of qualified CLECs. (Tr. p. 61). Although the HEPO acknowledges that the number of qualified CLECs is an indeterminate number, it does not even discuss the means by which SBC/Ameritech would be required to communicate that number to the participating CLECs on an OIS vote. (HEPO at 40). Instead, the HEPO adopts SBC/Ameritech number because it “appears fair and workable.” This finding is against the manifest weight of the evidence.

The HEPO essentially adopts SBC/Ameritech's quorum requirement in order to punish CLECs for non-participation in an OIS vote. The HEPO finds that "in our view, a quorum requirement is the only way to ensure meaningful participation." (HEPO at 39). In other words, "CLECs, if you don't participate in an OIS vote, we will let SBC/Ameritech have its way with your EDI interface." This tactic is as unfair as it is unwarranted. There is no evidence in this case that CLECs need the "threat" of a quorum requirement to ensure participation. Rather, the record reflects that there may well be instances where only a small number of qualified CLECs are actually "affected" by the subject of the OIS vote. (Tr. 80.)¹¹ The Commission's first concern should be to ensure that the quality of SBC/Ameritech's OSS software releases enhance a CLEC's ability to provide a level of service quality that will enable viable competition. A flawed release can only serve to thwart this goal.

The HEPO completely ignores the role of SBC/Ameritech in the OIS voting process. An OIS vote is held because at least one CLEC has a concern with a change that SBC/Ameritech is going to implement. The HEPO instead gives SBC/Ameritech a "supervote" if no quorum can be achieved by the CLECs. This is a problem for CLECs because SBC/Ameritech, among all of the participants to the change management process has the most to gain by "gaming" the OIS process. A flawed EDI release benefits SBC/Ameritech, not the CLECs.

The HEPO finds that "AI's quorum proposal evolved from its being uncomfortable with the idea that just one CLEC could conceivably make a determination, the consequences of which would effect [sic] many CLECs in many regions." (HEPO at 37). The HEPO essentially

¹¹ The CLECs presented witnesses who have participated in the Illinois and other collaboratives as well as other industry meetings in recent years. Their testimony supports the notion that to get an arbitrary – even if small – number of carriers present for a vote can be difficult. When asked about Illinois CLEC participation on OSS issues in general, Mr. Cox from McLeod indicated that generally only "three or four" carriers show up (Tr. 115-16), while Ms. Coughlan similarly stated that rarely do even a "handful" of carriers participate. Tr. 112.

adopts this reasoning in its conclusion. Incredibly, the HEPO does not ascribe any legitimacy to the fact that the CLEC community is “uncomfortable” with the idea that just one monopoly ILEC could “conceivably make a determination,” the consequences of which would affect these very same CLECs. Under the logic of the HEPO, seven CLECs could participate in an OIS call, but no vote could take place due the lack of a quorum and SBC/Ameritech’s unilateral decision to implement an EDI change would proceed unchallenged. This result is contrary to both the spirit and intent of the change management process and Roberts rules.

This Commission cannot reasonably accept the proposition that SBC/Ameritech is acting out of concern for “unrepresented” CLECs by insisting on a quorum. This defies all reason and experience. Rather, the Commission should act on common sense that suggests that SBC/Ameritech’s “uncomfortableness” is based on the idea that without a quorum requirement, the OIS voting process will actually work as advertised.

The Commission should reject the conclusion of the HEPO and instead require SBC/Ameritech to abide by a majority vote of the participating qualified CLECs on an OIS vote. The CLEC proposal is reasonable. It provides certainty; it is a far better means of establishing the population of “affected” CLECs. Most of all, it is not arbitrary and it will not prevent the OIS voting process from serving its critical role in the change management process. It provides a far better assurance that an OIS vote will be “majority rule” than the HEPO’s adoption of SBC/Ameritech’s demonstrably arbitrary quorum requirement.

Proposed Language for Disputed Issue No. 4

Strike the Analysis and Conclusion section that begins at page 35 of the HEPO and runs through page 28 and replace with the following:

Ameritech has failed to justify either the necessity or fairness of its quorum requirement for an OIS vote in the Change Management Process to be followed in Illinois. It is clear that both the figure of 50% of qualified CLECs, as well as the alternative minimum of eight, are wholly arbitrary. Ameritech could not provide any reasoning based in experience to explain how either figure was settled upon.

More telling is the fact that no CLECs support Ameritech's quorum proposal. Ameritech claims that its insistence on a set quorum is designed to ensure broad CLEC participation in OIS deliberations. However, while Ameritech's concern for the broad interests of CLECs is laudable, we find that the CLEC proposal for an OIS vote to be determined by a majority of CLECs participating in the OIS vote provides better protection for CLECs. Under the CLEC proposal, all interested CLECs will be able to participate in the discussion and all qualified CLECs with an interest in doing so may participate in an OIS vote. Ameritech's quorum requirement does nothing to ensure broad CLEC participation, rather it only serves to prevent an OIS vote if a quorum is not present.

The key distinction between the CLEC proposal and the Ameritech proposal is that under the CLEC proposal, CLECs that choose not to participate in the OIS vote will not prevent an OIS vote simply by virtue of their non-participation. Certainly, by choosing not to participate in an OIS vote, a CLEC indicates a degree of ambivalence towards the outcome of the vote. Under Ameritech's proposal, nonparticipation automatically is counted in a favor of an OSS interface change as proposed by Ameritech -- to the point of overriding the interests of those CLECs that do choose to participate, but fall short of Ameritech's arbitrary quorum number.

Accordingly, we find that Ameritech should revise the Change Management Process appended to its OSS Plan of Record to reflect that a majority of participating qualified CLECs shall determine the outcome of an OIS vote.

Disputed Issue No. 6: OSS Interface Availability

Exception: The HEPO should be revised to reflect the record evidence and require 24x7 access to all of Ameritech's OSS systems and to require that the Illinois POR be revised to reflect the Commission's conclusions.

The HEPO finds that the Staff's recommendation should be adopted with respect to OSS interface availability. (HEPO, p. 45). The HEPO claims it balances the need for system maintenance against the CLECs' need for system availability, but ignores the record evidence. Instead of pointing to record evidence about the amount of time needed for maintenance for Ameritech's specific OSS systems, the HEPO erroneously relies upon "Staff's determination

that 24x7 access is “wholly cost prohibitive” and also takes into account Ameritech’s “assertion of insufficient customer demand to support such an economic burden.” (HEPO, p. 44).

First, there is no record evidence concerning the “economic burden” of implementing 24x7 OSS availability other than unsubstantiated statements of Ameritech’s witness at hearing. Indeed, while Staff asked for Ameritech to provide studies that purportedly support such claims, no such studies were ever entered into the record or subjected to cross examination. (Tr. p. 226-227). For this reason alone, the HEPO’s conclusion rests entirely on faulty assumptions, which are not supported by record evidence. Therefore, the record does not support any assertions that that 24x7 is “wholly cost prohibitive.”

Second, the only credible record evidence does support the CLECs’ request for 24x7 access to systems, with an hour or two downtime for maintenance per system, per month. CLECs provided evidence that other Incumbent Local Exchange Carriers (“ILECs”) similar in size to Ameritech do in fact provide 24x7 access to pre-order and ordering interfaces today. (WorldCom Reply Comments, pp. 5-7; Attachment A). Neither Staff nor Ameritech countered evidence provided by WorldCom on that point. Staff even acknowledged that the practice of other large ILECs is relevant to what should be expected and implemented in Illinois. (Staff Initial Comments, pp. 17-18).

Instead of zeroing in on relevant information – like the specific times when Ameritech’s back-end and interface systems will be unavailable as a direct result of maintenance activities – the HEPO accepts at face value arguments by Ameritech that reducing the amount of maintenance on a system might add some hours of availability but would “likely” reduce performance and processing speed when most needed. (HEPO, p. 45). The reason that the HEPO does not identify specific hours of maintenance that are required for Ameritech’s OSS

systems is because Ameritech never provided that information. Instead, Ameritech only reported the hours that it has offered to make its back- systems available to CLECs. (Ameritech Comments, pp. 27-28) Ameritech did not even attempt to provide any regularly scheduled “maintenance windows” and contended at hearing that it was in no position to make any such commitments given that its “investigation” is still on going. (Tr., p. 223).

In short, Ameritech has provided no compelling evidence why its systems should not be made available as requested by the CLECs. The record is bereft of *any* evidence concerning the amount of time that Ameritech requires for system maintenance, yet the HEPO claims to have weighed that need against CLECs’ need for access to Ameritech’s OSS to be able to compete in the local market. Consequently, the conclusion reached in the HEPO is without reasonable basis. In the absence of compelling technical reasons why all systems cannot be available 24 x 7, with one or two hours of maintenance downtime per system per month, the Commission should require them to be made available on that basis.

Accordingly, the HEPO erred in rejecting the CLECs’ arguments that they should receive 24x7 access to pre-order, order and maintenance and repair systems, and the HEPO should be modified to adopt the CLECs recommendations on this issue.

The CLECs acknowledge that Staff’s proposed resolution is better than Ameritech’s non-committal and incomplete response on this issue. To the extent the Examiner and the Commission are not inclined to change the substance of the HEPO’s proposed conclusion on this matter, the conclusion should be changed to make clear that the Plan of Record (“POR”) should reflect the Sunday hours for pre-order and the schedule for further expanding pre-order and ordering OSS hours of availability within the timeframes proposed by the HEPO.

Proposed Language for Disputed Issue No. 6

For all of the reasons set forth above, the “Analysis and Conclusion” section at pages 44 to 45 of the HEPO should be eliminated and replaced with the following:

We agree that expanded availability of systems for pre-order, order and maintenance and repair is critical to the ability of CLECs to compete in the local market. CLECs who have on-hands experience in other jurisdictions where access to OSS systems for pre-order, order and maintenance and repair is available have attested to the fact that those systems are available virtually 4 hours a day, seven days a week in New York where competition in the local market is unquestionably more advanced than local competition in Illinois. Competitive carriers operating in New York serving residential and small business customers on a mass market basis utilizing UNEs and combinations of UNEs, including the UNE Platform, have provided convincing evidence of the need for expanded hours of availability, whereas Ameritech never even bothered to identify specific hours of maintenance that its OSS systems require. The Commission desires to move in a timely fashion toward the type of local competition that is evident in New York. Absent compelling technical reasons that all OSS systems should not be available 24 x 7, with one or two hours of maintenance downtime per system per, we believe that all of Ameritech’s systems should be made available on that basis. The weight of the evidence on this issue clearly supports the CLECs in this regard.

Accordingly, we order Ameritech to make its pre-order, order and maintenance and repair systems available 24 hours a day, seven days a week, with no more than a couple of hours per month reserved for regularly scheduled maintenance of those systems. Ameritech shall file with this Commission and publish on its CLEC website within 30 days a monthly maintenance schedule for each of its OSS systems that comports with this requirement and which Ameritech must adhere to on a going forward basis. To the extent that Ameritech determines that a particular system requires maintenance outside of the pre-determined monthly maintenance window, Ameritech is required to provide CLECs at least 30 days advance notice of the specific times that the particular system(s) or functionalities will not be available. Such a requirement is commercially reasonable and will provide CLECs with the ability to adequately plan workforce needs in advance of the dates and times that particular systems and functionalities may be unavailable due to system maintenance requirements. Ameritech is further directed to notify CLECs in real-time via pages and electronic mail when unplanned system outages occur. Finally, Ameritech’s Illinois POR shall be revised as specified at page 3 of WorldCom’s Reply Comments and Final Statement of Position. We find that replacement POR language reasonable and consistent with our findings here.

As discussed above, to the extent that the Hearing Examiner and the Commission are not inclined to change the HEPO’s conclusion on this issue, a sentence should added at the end of the last paragraph on page 45 as follows:

Ameritech shall modify Section H of the Future Method of Operation (“FMO”) portion of the POR entitled “Hours of System Availability” appearing at pages 63 to 64 of the POR (Attachment A to the Verified Petition for Arbitration) to reflect the that 8 hours of Sunday pre-order system access is available immediately and that further expansion of hours for pre-order and order will be implemented on the timeframes and requirements as specified herein.

Disputed Issues Nos. 9, 16, 20, 24, 40: Interface Development Rule

Exception: The CLECs take exception to the HEPO’s conclusion that the potential for a 13-state CMP negates the need for SBC/Ameritech to provide detailed specifications and business rules in Phases 1 and 2 of three-phase Condition 29 process.

A true test of the strength of the Commission’s OSS merger conditions lies in its decision on the issue of the Interface Development Rule (“IDR”), as proposed by the CLECs. The explicit intent of the Condition 29 was to assure that SBC/Ameritech would provide “industry standard” OSS on an expedited basis to support competitive entry in Illinois. Phases I and II of the OSS collaborative were designed to give CLECs a meaningful opportunity to review and provide comment on SBC/Ameritech’s planned OSS enhancements and, if necessary, to arbitrate portions of SBC/Ameritech’s planned OSS enhancements on the basis that they do not comport with industry guidelines or are insufficient to sustain a competitive market.

SBC/Ameritech has frustrated this entire process by failing to provide CLECs in Phase I or Phase II the business rules and specifications in regard to their planned enhancements. That fact is not in dispute. As the HEPO observes: “[I]t is undisputed that [Ameritech Illinois] has not yet provided detailed business rules or specifications with respect to its planned enhancements and that precludes litigation in this proceeding” with respect to issues that the CLECs might have in regard to those specifications.¹² Consequently, through their proposed Interface Development Rule (IDR), CLECs have asked the Commission to preserve their right to

arbitrate, consistent with the Phase II arbitration process, any issues that may be revealed upon a full review the specifications and business rules.

The HEPO rejects the CLECs' Interface Development Rule proposal. It does so relying entirely on the Change Management Process (CMP), which it expects to be finalized as part of the FCC's 13-State collaborative (but which at this point remains unresolved). Indeed, the HEPO itself acknowledges that "if there were no CMP in place" then "resolution of this issue would be simple (and undoubtedly favor of the CLECs)."¹³ For the reasons set forth below, the Commission should reverse the HEPO on this issue and enforce Condition 29 through adoption of the IDR. To fail to do so would be to reward SBC/Ameritech's failure over the past year to provide CLECs with the required business rules and specifications. The Change Management Process relied upon in the HEPO, on the other hand, is not an adequate or acceptable surrogate for the implementation and enforcement mechanisms set forth in the Commission's merger condition.

A brief review of the history of this case highlights the importance of preserving Condition 29 with strong enforcement rights on the part of CLECs. Pursuant to Condition 29, SBC/Ameritech is to develop and implement a "comprehensive plan" for improving the OSS systems and interfaces available to CLECs in Illinois. Paragraph 29 provides that SBC/Ameritech is to "deploy. . .commercially ready, application-to-application interfaces, *as defined, adopted, and periodically updated by industry standard-setting bodies for OSS that support pre-ordering, ordering, provisioning, maintenance and repair, and billing for resold services, individual UNEs, and combinations of UNEs.*" These enhancements were to be designed and implemented in three phases. In Phase I SBC/Ameritech submitted its Plan Of

¹² HEPO, p.. 53.

Record to the Commission. In Phase II, SBC/Ameritech were directed to “work collaboratively with ICC Staff and Illinois CLECs, in a series of workshops, to obtain written agreement on OSS interfaces, enhancements, and business requirements identified in the Plan of Record.” Under this framework, by the end of Phase II the CLECs and SBC/Ameritech were expected either to have come to written agreement on all aspects of the “OSS interfaces, enhancements, and business requirements” identified in Ameritech’s now revised POR, or to have arbitrated the outstanding issues.

From the filing of the initial POR in December of last year, the CLECs have objected that SBC/Ameritech has failed to provide the specifics of the interfaces and business rules necessary to evaluate (or even fully understand) SBC/Ameritech’s proposed improvements to its OSS. SBC/Ameritech’s initial submission was rejected by the Commission as vague and incomplete. The Chairman in his letter of February 17, 2000 cited the commitment to deploy industry-standard interfaces quoted above and pointed specifically to this deficiency:

The Plan of Record. . . and the follow-up letter filed with the Commission on January 7 and February 1, respectively, contain a limited indication of the specified industry standards which Ameritech Illinois intends to implement in its OSS. Such ‘standards’ information should be provided for each of Ameritech Illinois’ systems (c.g., pre-ordering, ordering, etc.), as defined by the Order and Billing Forum (‘OBF’) and the Telecommunications Industry Forum (‘TCIF’) guidelines as documented by the Alliance for Telecommunications Industry Solutions (‘ATIS’).

Nevertheless, as noted previously SBC/Ameritech still has not provided this information.

This failure is significant. The transactions that cross the OSS interface between SBC/Ameritech and the CLECs for preordering, ordering etc. are in the nature of electronic “forms,” each of which is specified with great particularity. It is the transmittal back and forth of this electronic data in computer-to-computer format that constitutes the operation of the OSS

¹³ HEPO, p. 54.

interface. Any deviation from specifications or business rules can result in a reject or other failure of the transaction. Thus, in order to build *its* systems, to operate on *its* side of the interface, a CLEC must have this level of information, and moreover until this information is made available, the CLEC simply does not know what “interfaces, enhancements and business requirements” SBC is to implement and how they will work.

The CLECs began this phase of the collaborative process with a list of issues – in many instances questions regarding the precise manner in which SBC/Ameritech planned changes to its interfaces and business rules would work. Over the course of the collaborative discussions it became clear that SBC/Ameritech at this point does not have the answers to these questions, or is not prepared to reveal them, and it is only with the future release of the actual specifications and business rules that SBC/Ameritech system changes can be evaluated relative to the industry standards and their needs for market entry.

The hearings have made the importance of this issue all the more clear. Under cross examination, SBC/Ameritech witness Mr. Gillis testified that he could not commit that SBC/Ameritech’s specifications for its planned OSS enhancements would be consistent with the industry-standard guidelines.¹⁴ Indeed, Mr. Gillis admitted that no party, including SBC/Ameritech, can know whether SBC/Ameritech’s planned OSS enhancements will comply with the guidelines until SBC/Ameritech actually provides its specifications.¹⁵ Moreover, Mr. Gillis stated that even the highly general business rules provided to CLECs and the Commission up to this point are subject to change until final specifications are released.¹⁶

¹⁴ Tr. 140-42.

¹⁵ Tr. 140-42.

¹⁶ Under cross examination of Mr. Gillis on the issue of light address validation, Mr. Gillis was shown a document (attached to AT&T’s initial comments as Exhibit 5 therein) that SBC/Ameritech purported to be “business rules” for its validation proposal. Significantly, Mr. Gillis noted that all business rules provided to CLECs up to this point

These admissions should put the debate about IDR to rest. Essentially the IDR proposal¹⁷ provides that with the publication of the specifications and business rules for its systems enhancements, SBC/Ameritech should simultaneously provide a document that “maps” those specifications to the relevant industry standards.¹⁸ Thereafter, SBC/Ameritech and the CLECs would proceed to expedited collaborative discussions. Any remaining issues or disputes would be subject to arbitration under the arbitration procedures set forth in the Condition 29 with respect to Phase III.¹⁹ Thus, this proposal allows the Issues in question to be deferred and permit SBC/Ameritech to proceed with Phase III.

SBC/Ameritech refused this simple and reasoned compromise, and the HEPO now sides with SBC/Ameritech. As noted above, the HEPO adopts the view that the process associated with “change management” are adequate to allow CLEC concerns with respect to its upcoming major LSOG release to be addressed and resolved. The change management process is no substitute for the expedited arbitration procedures of Paragraph 29, however, and the HEPO’s conclusions in this regard are unsupported by the record.

First, the HEPO simply ignores that SBC/Ameritech’s failure to provide specifications in derogation of the Commission’s merger conditions, and that if it had done so, issues surrounding

are subject to change until the actual detailed business rules and specifications are released. Tr. 749-50. Mr. Gillis indicated that the final business rules would only be provided along with the detailed specifications. Indeed, Mr. Gillis was asked numerous questions regarding SBC/Ameritech’s planned enhancements, and in each instance he admitted that he could not answer until specifications were released. See AT&T’s Reply Brief, pp. 30-32.

¹⁷ See Exhibit 1, FMO, Section A, Interface Development Rule.

¹⁸ In late October, SBC/Ameritech began to release its initial specifications and business rules for its March 2001 release. The CLECs are still reviewing these specifications to ascertain their sufficiency.

¹⁹ Condition 29 provides in relevant part that: “If one or more CLECs contend that SBC/Ameritech has not developed and deployed the system interfaces, enhancements, and business requirements consistent with the written agreements contained in Phase II, or has not complied with the Commission’s decision received in Phase 2, they may file a complaint with the Commission which shall arbitrate the issue(s) consistent with the procedures identified in Phase 2 except that this arbitration shall be concluded within 2 months.”

those specifications and business rules would have been arbitrated by the CLECs in this Phase II arbitration. The HEPO tacitly would allow SBC/Ameritech to circumvent the process.

The HEPO also ignores the fact that the parameters of the 13-state change management process are still not fully resolved, despite months of continuing negotiations and proposals back and forth.²⁰ These issues are still subject to negotiation under the auspices of the the FCC, and perhaps arbitration.²¹ Thus, the HEPO's reliance on a Change Management Process that is not in place to govern the significant enhancements due in March 2001 is misplaced.

Beyond that, the HEPO's decision would significantly dilute the pro-competitive benefits of Condition 29. Diverting these issues properly raised in the form of the Phase II collaborative process to the ordinary change management process would abandon the expedited protections available to CLECs under the merger conditions. Under Paragraph 29, CLECs have a right to arbitrate before the Commission, if necessary, any OSS system changes on the grounds that they do not conform to the industry standard (as well as the right to arbitration, if necessary, over whether SBC/Ameritech's *implementation* is compliant). SBC/Ameritech's position would remove these questions from the operation of the merger order and the underlying issue of whether the Commission's conditions have complied with.

Unlike the expedited collaboration and arbitration process provided in Condition 29, the CMP provides for an elongated five month process by which SBC/Ameritech is to (1) release initial business rules and specification, (2) discuss these rules and specifications with CLECs, and (3) implement them. However, what the HEPO ignores is that that the CMP only allows CLECs to protest a planned OSS enhancement; they can only vote "yes or no," not attempt to

²⁰ CLECs began negotiations with SBC/Ameritech to develop a Change Management Process in November, 1999.

modify or enhance it. Under the CMP the CLECs have no right to arbitrate (either on an expedited basis or otherwise), SBC/Ameritech's planned OSS enhancements. They have no right to arbitrate whether or not those enhancements comply with industry standards; and they have no right to arbitrate (on an expedited basis or otherwise) whether these OSS enhancements will promote competition and satisfy CLEC needs. That type of expedited and authoritative resolution based upon those standards is exactly what the Commission's merger conditions provided; and what the HEPO abandons.

Accordingly, the CLECs ask that the Commission reject the HEPO's decision on the IDR issues and instead adopt the Interface Development Rule as proposed by the CLECs, and that it make clear that the CLECs may initiate a Phase III arbitration if they believe that SBC/Ameritech's detailed specifications and business rules conflict with the commitments SBC/Ameritech has made in the revised POR or with the relevant industry standards according to the provisions of Condition 29.

Proposed Language for Disputed Issue Nos. 9, 16, 20, 24 and 40

Strike the entire "Analysis and Conclusion" statement provided on pages 53-55 of the HEPO and insert the following language:

Pursuant to the Commission's merger conditions, SBC/Ameritech is to implement a "comprehensive plan" for improving the OSS systems and interfaces available to CLECs in Illinois. The OSS Condition, Paragraph 29, provides that SBC/Ameritech is to "deploy. . .commercially ready, application-to-application interfaces, *as defined, adopted, and periodically updated by industry standard-setting bodies for OSS that support pre-ordering, ordering, provisioning, maintenance and repair, and billing for resold services, individual UNEs, and combinations of UNEs.*" As adopted by the Commission in the Merger Order, SBC/Ameritech's proposal called for these enhancements to its OSS to be designed and implemented in three

²¹ SBC/Ameritech has requested arbitration before the FCC on open issues surrounding that proposed 13-state change management plan and has allowed parties until December 7, 2000 to negotiate a resolution of any open issues.

phases. In Phase I SBC/Ameritech submitted its plan of record to the Commission.²² In Phase II, we directed SBC/Ameritech to “work collaboratively with ICC Staff and Illinois CLECs, in a series of workshops, to obtain written agreement on OSS interfaces, enhancements, and business requirements identified in the Plan of Record.” At Phase II’s conclusion, Phase III, which is the implementation and testing phase, is to begin.

Under this framework, at the end of Phase II the CLECs and SBC/Ameritech are expected either to have come to written agreement on all aspects of the “OSS interfaces, enhancements, and business requirements” identified in Ameritech’s now revised POR, or to have arbitrated the outstanding issues.

Despite knowing its planned OSS enhancements identified in the POR for more than a year, the record is uncontested that SBC/Ameritech still has not provided this information. By refusing to give CLECs detailed specifications and business rules for its proposed interfaces and enhancements, SBC/Ameritech has failed to give Illinois CLECs the information they need to determine what those “interfaces, enhancements, and business requirements” will actually include and the information we expected them to provide to CLECs in the Phase II collaborative. We intended that SBC/Ameritech provide this specification level detail in Phase II of the collaborative to allow CLECs and Ameritech to attempt to come to agreement on these detailed specifications and business rules well before implementation of the enhancements identified in the POR.

This failure is significant. As the hearing made clear, the devil is in the details. For example, the Commission’s merger approval order requires SBC/Ameritech to deploy OSS as “adopted, and periodically updated by industry standard setting bodies of OSS.”²³ Indeed, Chairman Mathias made his reading of this order abundantly clear when he indicated that it is incumbent upon SBC/Ameritech to provide “standards information” for “each of Ameritech Illinois systems as defined by the Order and Billing Forum and the Telecommunications Industry Forum guidelines as documented by the Alliance for Telecommunications Industry Solutions.”²⁴ These are the industry bodies that set the standards for industry-wide specifications of OSS.²⁵ SBC/Ameritech has never provided these specifications.

Under cross examination, SBC/Ameritech witness Mr. Gillis *could not* commit that SBC/Ameritech’s specifications for its planned OSS enhancements would be consistent with these industry-standard guidelines.²⁶ Instead, Mr. Gillis admitted that no party, including SBC/Ameritech, can know whether SBC/Ameritech’s planned OSS enhancements will be consistent with those guidelines until SBC/Ameritech provides its specifications.²⁷ Thus, there is simply no way for CLECs or this Commission to gauge whether SBC/Ameritech’s POR complies with its directive to implement industry standard OSS interfaces.

²² SBC/Ameritech’s initial submission was rejected by the Commission as vague and incomplete. Following amendment of the proposed POR, the Commission accepted the revised document as the basis for going forward.

²³ ICC Docket No. 98-055, Merger Approval Order, p. 253.

²⁴ Cross Exhibit 3 (Gillis, Issue 9), Attachment A thereto, p. 1.

²⁵ Tr. 139-40.

²⁶ Tr. 140-42.

²⁷ Tr. 140-42.

SBC/Ameritech has indicated on the record that even to the extent it has provided "business rules" regarding its planned enhancements to the CLECs either in the collaborative or the POR, those rules --albeit extremely vague -- are subject to change until the detailed business rules and initial specification are released. Thus, there is no reason whatsoever for either the CLECs or the Commission to be assured that they know what exactly SBC/Ameritech has committed to provide CLECs in advance of the release of the detailed specifications and final business rules.

In the interests of moving this process along, the CLECs have advanced a proposal, included in Exhibit 1, and referred to as the "Interface Development Rule."²⁸ Essentially it provides that with the release of the specifications and business rules for its systems enhancements, SBC/Ameritech should simultaneously provide a document that "maps" those specifications to the relevant industry standards.²⁹ Thereafter, SBC/Ameritech and the CLECs would proceed to expedited collaborative discussions. Any remaining issues or disputes would be subject to arbitration under the arbitration procedures set forth in the Condition 29 with respect to Phase III. Condition 29 provides in relevant part that: "If one or more CLECs contend that SBC/Ameritech has not developed and deployed the system interfaces, enhancements, and business requirements consistent with the written agreements contained in Phase II, or has not complied with the Commission's decision received in Phase 2, they may file a complaint with the Commission which shall arbitrate the issue(s) consistent with the procedures identified in Phase 2 except that this arbitration shall be concluded within 2 months." This proposal would allow the issues in question to be deferred and permit SBC/Ameritech to proceed with Phase III.

We find this compromise reasonable and direct that this process should begin immediately upon the release of this order. It is our hope, consistent with Phase II, that CLECs and SBC/Ameritech can collaboratively reach agreement on these specifications and business rules and avoid arbitration. However, we agree with the CLECs that their right to arbitrate issues concerning these business rules and specifications in Phase II would be relinquished if we were to ignore SBC/Ameritech's refusal to provide these specifications and business rules that should have already been provided.

We are also unpersuaded by SBC/Ameritech's argument that the 13-state Change Management Process, which is still unresolved, is a reasonable substitute for the process we defined in our merger order. First, it is our understanding that this process has not yet been finalized and on that basis alone could not be considered an adequate substitute. The CMP provides for an extended five-month review of the specifications and business rules. In addition, unlike our merger conditions, there is no expedited arbitration or dispute resolution process provided for in the 13-state CMP. And at best, the CMP only provides CLECs an ability to call a "yes no" vote on a proposed OSS enhancement. It does not provide CLECs a venue to change those specifications and business rules, as our merger conditions do. We view the CMP process

²⁸ See Exhibit 1, FMO, Section A, Interface Development Rule.

²⁹ In late October, SBC/Ameritech began to release its initial specifications and business rules for its March 2001 release. The CLECs are still reviewing these specifications to ascertain their sufficiency.

as “business as usual,” while our merger conditions were intended to provide something beyond the usual, i.e., an expedited process for CLECs to review and evaluate the proposed specifications and business rules. The CMP does not provide a process for the CLECs, or this Commission, to assure that SBC/Ameritech has provided OSS consistent with our merger conditions. In this regard, we believe that in order to preserve the intent and integrity of our merger conditions designed to provide for industry standard OSS that promote competition, we should adopt the IDR process proposed by the CLECs.

Disputed Issue No. 10: Plan of Record Agreement Documentation

Exception: HEPO should be revised to more accurately reflect how LSOG 5 should be referred to in the Illinois POR.

Proposed Language for Disputed Issue No. 10

With respect to issue 10, the HEPO offers proposed language in regard to how the POR should reference LSOG 4 and requests the parties to indicate whether they believe this language acceptable. (HEPO, p. 53).

AT&T has proposed some minor changes to this language as follows:

The Ameritech March 2001 ordering and pre-ordering releases will be based on OBF LSOG 4. Where guidance exists in LSOG 5 but not in LSOG 4 for functionality to be implemented in March 2001, Ameritech will look to LSOG 5 when creating specifications for that functionality. While there is no Ameritech ordering release currently scheduled for June 2001, should Ameritech schedule such a release, it would be based on LSOG 4. As part of the SBC Uniform and Enhanced OSS POR, AI has agreed that Phase II pre-ordering and ordering releases in Ameritech will include some LSOG 5 functionality. These uniform interface releases will also include changes to increase Ameritech's conformance to LSOG 4 industry standards and implement the balance of LSOG 4 functionality. The specifications for these releases are to be made available consistent with the intervals specified in the Change Management Process.

Disputed Issue No. 13: Relaxed Customer Service Record Address Validation

Exception: The HEPO should clarify the date by which relaxed customer service record address validation must occur and direct that the Illinois POR be modified to reflect that requirement.

The HEPO appropriately recognizes the “critical importance of this functionality

[validation that does not require address] to the CLECs” and correctly finds that “the relaxed address validation committed to by AI should be given top priority.” HEPO, p. 61. The HEPO rejects Ameritech’s proposed implementation date of March 2001 and the Staff’s and CLECs proposed implementation date of December 2000 in favor of a “February 2001” implementation date. Since Ameritech’s commitment to implement “Lite Validation” has slipped on more than one occasion – initially Ameritech had committed to implement Lite Validation by September 1, 2000 and then by December 2000 in the Illinois POR submitted to the Commission in this proceeding – it is imperative that the HEPO be as specific as possible concerning the implementation requirement. (Tr. 778-779).

Given the importance of timely implementation coupled with the fact that Ameritech has or should have been taking steps to implement Lite Validation since before September 1, 2000, the HEPO should specifically state that implementation should take place as soon as possible, but in any event no later than a date certain. CLECs suggest that given the circumstances, the date should be sooner than “February 2001,” but in any event “no later than February 1, 2001”. Additionally, the HEPO should be modified to direct that the POR reflect that finding.

Proposed Language for Disputed Issue No. 13

In its current state, the HEPO is unnecessarily vague on the date by which implementation must be completed. As a result, the CLECs recommend that at a minimum that the “by February 2001” reference at the end of the second full paragraph on page 61 of the HEPO be changed to “as soon as possible but in any event no later than February 1, 2001.” In addition, a sentence should be added directly following the last sentence in the third full paragraph on page 61 of the HEPO which states: “The paragraph beginning ‘Ameritech Illinois

will do an abbreviated TN/address validation' at page 48 of the Illinois POR shall be modified to reflect the aforementioned dates and the substance of our directives with respect to this issue."

Disputed Issue No. 18: Flowthrough

Exception: The HEPO should be revised to provide more specifics in relation to flow through.

Generally, the HEPO provides for the following process: (1) Ameritech is to provide a complete list of flow through exceptions by April 15, 2000; (2) CLECs are to provide Ameritech a "writing" that sets forth their priorities in relation to flow through; (3) the CLECs and Ameritech are then to work together in collaboratives to review and discuss these CLEC proposals; and (4) Ameritech is to provide to the Commission a report detailing its proposal and plan for reducing flow-through exceptions.³⁰

The CLECs believe that this plan should be enhanced in several respects. First, beyond the April 15th date, the HEPO fails to set forth any dates for the proposed process. The CLECs believe that the HEPO should be revised to provide deadlines for the flow through collaborative. First, the Commission should obligate CLECs to provide their "writing" detailing their flow through priorities within 10 days of the release of Ameritech's complete list of exceptions on April 15, 2000. Second, the subsequent collaborative called for in the HEPO should be limited to 30 days, unless the parties agree to an extension. Third, the final report due from Ameritech should be filed within one week of the conclusion of the collaborative sessions.

In addition, the CLECs are concerned with the fact that the HEPO does not provide CLECs the ability to comment on the Ameritech final report. If the CLECs and Ameritech are unable to come to agreement on additional flow through initiatives at the close of the

collaborative, CLECs should have the ability to file written comments on Ameritech's final report.

Perhaps most importantly, the CLECs object to the fact that the HEPO fails to provide any "resolution" to the flow through issues in the event that CLECs and Ameritech cannot come to agreement in the collaborative. Therefore, the CLECs request that the Commission rule on any disputed issues identified in the CLEC comments to Ameritech's final flow through report. Such resolution is necessary, and it is consistent with the Commission's merger conditions, which were intended to provide CLECs prompt resolution of outstanding OSS issues. As the hearing in this case made clear, there are significant issues surrounding Ameritech's dismal flow through performance. In the event the disputes between the CLECs and Ameritech are not resolved, the Commission should resolve them.

The importance of flow-through to CLEC business plans cannot be overstated. As noted in AT&T's comments, manual intervention in the ordering process brings into a play a myriad of potential errors caused by human error.³¹ This fact was substantiated by the CLEC witnesses at the hearing. For example, CoreComm witness Ms Cegelski pointed out that manual intervention causes increased rejections that are made in error, thereby affecting a CLEC's ability to send orders across to Ameritech and receive a timely response.³² Mr. Cox from McLeod explained that flow-through also reduces ordering intervals so that CLEC can more quickly and efficiently service their customers.³³ Ms. Cegelski explained that short intervals would allow CLECs to know about rejections sooner, and thus get them corrected sooner rather than later.³⁴

³⁰ HEPO, pp. 72-73.

³¹ AT&T Exhibit 4.0 (AT&T Initial Comments), pp. 22-24.

³² Tr. 561-63.

³³ Tr. 559.

³⁴ Tr. 560.

The record also established that flow-through will become all the more important as the volume of CLEC orders increases. As volumes rise, manual processing of CLEC orders will place increased stress on SBC/Ameritech's ability to manually process these orders on a timely basis. It goes without saying that as volumes rise, manual processing will increase errors and severely tax SBC/Ameritech's wholesale organization. In fact, in regard to UNE-P, SBC/Ameritech has acknowledged this potential problem. As Mr. Gillis indicated at hearing, based on SBC's experience in Texas, SBC/Ameritech anticipates high volumes of orders for UNE-P in Illinois. Thus, Mr. Gillis acknowledged the need to improve SBC/Ameritech's flow-through capabilities for processing orders to at least 80%.³⁵

Yet the record reflected the fact that Ameritech's flow through performance is abysmal at this point, and far less than this 80% goal. While SBC/Ameritech's retail flow through rate hovers close to 100%, its flow through rates for all CLEC orders is less than 50%, and for UNE-loop orders the flow through rate falls to less than 25%.³⁶ The Commission should find these rates unacceptable for sustaining a competitive market, and they will be all the more intolerable with any measurable increase in CLEC order volumes. The Commission should find these flow through rates unacceptable moreover in light of the fact that Ameritech admits it has no plans whatsoever to improve flow through rates for UNE orders other than UNE-P. The Commission, accordingly, should accept the CLEC proposal for a well-defined process to address Ameritech's flow through deficiencies.

The CLECs' final exception to the HEPO's conclusions and analysis concerning flow through relates to one sentence in the HEPO that states as follows: "Further, based on the limited record in this proceeding, we are not convinced that parity is the right end but rather that

³⁵ Tr. 526.

increased performance is both the well settled and the optimal goal.” The HEPO is correct in stating that the record in this case did not address the issue of whether parity should be the goal of flow through. In fact, the flow through proposals submitted by the CLECs would not obligate Ameritech to provide flow through at parity with Ameritech’s retail flow through rate. That was never the focus of the flow through remedies proposed by the CLECs. The record in this case simply does not support a conclusion that parity should or should not be the goal of flow through. The CLECs do believe that a comparison of CLEC wholesale to Ameritech retail flow through rates is a relevant and important measure to assure that Ameritech is providing “nondiscriminatory” access to OSS, but the Commission should save this determination to a time when this important issue is before it on a complete record (e.g., in a 271 compliance case). The HEPO acknowledges that such a complete record does not exist here. Thus, this sentence should be stricken.

Proposed Language for Disputed Issue No. 18

Strike entire “conclusion” section on pages 72-73 and insert the following language:

We agree with the CLECs that the electronic flow-through of CLEC orders is a direct indicator of how fast and efficiently those orders are processed by Ameritech. No party can contest the fact that manual intervention in the ordering process brings into a play a myriad of potential errors caused by human error and certainly slows the flow of an order.

The record also established that flow-through will become all the more important as the volume of CLEC orders increases. As volumes rise, manual processing of CLEC orders will place increased stress on SBC/Ameritech’s ability to manually process these orders on a timely basis. It goes without saying that as volumes rise, manual processing will increase errors and severely tax SBC/Ameritech’s wholesale organization.

Based on these facts, we believe that Ameritech should drastically increase its flow through capabilities. The flow through rates Ameritech has reported for UNE orders such as UNE-loops, as provided on this record, are abysmal and unacceptable. The fact SBC/Ameritech has no plans to improve flow through rates for UNE orders causes us even greater concern. We question whether these flow through rates could sustain a competitive environment, especially if

³⁶ AT&T Reply Comments, p. 50.

CLEC order volumes would increase placing additional stress on Ameritech's manual processing procedures.

We therefore direct Ameritech and the CLEC to engage in the following process: (1) Ameritech is to provide CLECs a complete list of flow through exceptions by April 15, 2000, (2) CLECs shall provide Ameritech a written description of their priorities in relation to flow through within 10 days of the release of this list of exceptions, (3) Once the CLECs have provided this priority list to Ameritech, the CLECs and Ameritech are to work together in collaboratives (not to exceed 30 days unless otherwise agreed to by the parties) to review and discuss these CLEC proposals, (4) Within one week of completion of these collaboratives sessions, Ameritech is to provide to the Commission a final report detailing its proposal and plan for reducing flow-through exceptions, (5) CLECs shall have fourteen days to respond to this final report with any objections and proposed revisions. Upon completion of this process, the Commission will resolve any remaining disputed issues surrounding flow through raised by the parties.

Disputed Issue No. 42: Unsolicited 865 Transactions

Exception: The CLECs take exception to the HEPO in that the parties have recently settled the contested issues.

Just yesterday, in collaborative discussions in the state of Wisconsin, the CLECs and Ameritech came to agreement on issues surrounding unsolicited 865 transactions. The following are the terms of that settlement:

Ameritech will implement Provider Initiated Transactions to notify CLECs of necessary changes that have been made to previously-confirmed orders. In addition, Ameritech agrees to the following:

- (1) Ameritech will provide the Purchase Order Number (PON) and Version (VER) of the most currently processed LSR in its transaction so that the appropriate data will be included that will allow the CLEC to associate the 865 to the appropriate LSR in its system.
- (2) In the design and operation of the work center processes it employs to create the 865s, Ameritech will ensure that its representatives consider order supplements that may also relate to the confirmation being modified and accommodate changes made by those supplements in the 865 notice.

- (3) Ameritech work centers staff will endeavor to keep 865 transactions to the minimum level necessary to ensure the efficiency and effectiveness of the 865 notification process.
- (4) Ameritech will provide for coding the transactions with a clear and unambiguous indicator(s) reflecting the underlying reason for the change in confirmation. The codes will assist Ameritech and CLECs in administering the performance measurements that relate to confirmations, jeopardies and the timeliness of the unsolicited 865s. E.g., codes assigned to jeopardy conditions for due date changes would be distinguishable from those for telephone number changes; codes for changes in service order numbers would be distinguishable from those for circuit number changes.
- (5) Ameritech will work collaboratively with the CLECs in the Phase III Category IV collaborative at the FCC in developing the underlying reason coding scheme consistent with industry standards and CLEC needs for information about the underlying reasons for the transactions. Refinements and changes in reason codes and 865 processes that arise in the future would be proposed and implemented consistent with the Change Management Process.
- (6) On or before February 14, 2001, Ameritech will implement the activities and work described in paragraphs (2) and (3) above. Ameritech will use the time before February 14, 2001 to conduct necessary training and internal work necessary to undertake the activities and work described in paragraphs (2) and (3) above.
- (7) All the Unsolicited 865 process improvements described in paragraphs (1)-(6) above will be made available in the March 2001 ordering release along with the implementation of the modifications to Ameritech systems to support full refresh supplemental orders by March, 2001 in the same manner as is utilized in the other SBC regions.

This agreement should be incorporated into the terms of the Ameritech POR and the conclusion section of the HEPO should be revised consistent with the foregoing. However, in the event Commission declines to adopt this recommendation, or if the agreement between the CLECs and Ameritech dissolves for any reason prior to the Commission's final determination in this case, the CLEC reassert the positions contained in their verified comments and take exception to the HEPO consistent with those comments.

Proposed Language for Disputed Issue No. 42

Strike entire analysis and conclusion section appearing on pages 92-93 of the HEPO and replaced with the following language:

It is our understanding that this issue has been settled by the parties. Based on the description of the settlement contained in the exceptions provided by the parties, the POR should be revised to include the following language:

Ameritech will implement Provider Initiated Transactions to notify CLECs of necessary changes that have been made to previously-confirmed orders. In addition, Ameritech agrees to the following:

- (1) Ameritech will provide the Purchase Order Number (PON) and Version (VER) of the most currently processed LSR in its transaction so that the appropriate data will be included that will allow the CLEC to associate the 865 to the appropriate LSR in its system.
- (2) In the design and operation of the work center processes it employs to create the 865s, Ameritech will ensure that its representatives consider order supplements that may also relate to the confirmation being modified and accommodate changes made by those supplements in the 865 notice.
- (3) Ameritech work centers staff will endeavor to keep 865 transactions to the minimum level necessary to ensure the efficiency and effectiveness of the 865 notification process.
- (4) Ameritech will provide for coding the transactions with a clear and unambiguous indicator(s) reflecting the underlying reason for the change in confirmation. The codes will assist Ameritech and CLECs in administering the performance measurements that relate to confirmations, jeopardies and the timeliness of the unsolicited 865s. E.g., codes assigned to jeopardy conditions for due date changes would be distinguishable from those for telephone number changes; codes for changes in service order numbers would be distinguishable from those for circuit number changes.
- (5) Ameritech will work collaboratively with the CLECs in the Phase III Category IV collaborative at the FCC in developing the underlying reason coding scheme consistent with industry standards and CLEC needs for information about the underlying reasons for the transactions. Refinements and changes in reason codes and 865 processes that arise in the future would be proposed and implemented consistent with the Change Management Process.
- (6) On or before February 14, 2001, Ameritech will implement the activities and work described in paragraphs (2) and (3) above. Ameritech will use the time before February 14, 2001 to conduct necessary training and internal work necessary to undertake the activities and work described in paragraphs (2) and (3) above.

(7) All the Unsolicited 865 process improvements described in paragraphs (1)-(6) above will be made available in the March 2001 ordering release along with the implementation of the modifications to Ameritech systems to support full refresh supplemental orders by March, 2001 in the same manner as is utilized in the other SBC regions.

Disputed Issue No. 46: Hot Cuts

Exception: The HEPO requires CLECs to decide within 30 minutes of completion of the DT/ANI test whether the due date should be pushed back. This expedited 30-minute timeframe was only intended to be used if the DT/ANI test was conducted on the due date, however. Thus, the HEPO's conclusion on this point is unreasonable and should be stricken.

On the whole, the HEPO provides for a reasonable process by which Ameritech will provide a dial tone/ANI ("DT/ANI") test 48 hours prior to the due date for the cutover of a loop (DD-2). The HEPO also properly obligates SBC/Ameritech to provide CLECs with notice a problem discovered in the DT/ANI test within one hour of completion of that test. However, although this issue was not raised by any party, the HEPO provides CLECs only 30 minutes following this notice to decide whether the due date should be pushed back.³⁷

The CLECs seek rehearing on this issue. This process undercuts the entire basis for pre-cutover testing. Indeed, the entire point of conducting a test two days prior to the cutover is to allow the CLEC ample time to fix a problem with the loop cutover before the due date, thereby keeping the customer's original due date in tact. Ameritech's affiliate, SWBT, provides just such a process whereby CLECs are given the ability to fix a problem discovered in the DT/ANI test up until the actual due time.

CLECs certainly should not be forced to decide whether to go forward with a cutover as scheduled within 30 minutes of receiving notice of a problem in the DT/ANI test on DD-2. The

essential point the HEPO misses is that the 30-minute rule currently provided in Ameritech's processes only make sense if the DT/ANI test is completed on the due date, as currently done by Ameritech. It fits in the current process, not the revised pre-cutover testing process provided for in the HEPO. In other words, if the DT/ANI test is completed as it is now on the due date, and a problem is found, it is not unreasonable to obligate CLECs to provide prompt 30 minute notice to Ameritech on whether or not it intends to proceed with the cut. However, this expedited timeframe makes no sense if the DT/ANI test is completed on DD-2.³⁸ Indeed, as noted in AT&T's initial comments, the CLECs do not even provide Ameritech a cut sheet scheduling a cut until the day before the scheduled due date.

In short, the 30-minute notice requirement only makes sense if the DT/ANI test is conducted on the due date, not on DD-2 as provided for in the HEPO. This was not an issue discussed by the parties and it should be stricken from the HEPO. The parties should be allowed to negotiate proper notice procedures consistent with the presumption the DT/ANI test is conducted on DD-2.

Proposed Language for Disputed Issue No. 46

Strike language in the HEPO on page 98 that provides "and allow the CLEC 30 minutes to decide whether the due date should be pushed back."

Disputed Issue 62: Directory Listing Ordering and Inquiry

Exception: The CLECs take exception to the proposed order in that the parties have recently settled the contested issues.

³⁷ HEPO, p. 98.

³⁸ AT&T would expect that even Ameritech would agree with it in regard to this exception.

Just yesterday, in collaborative discussions in the state of Wisconsin, the CLECs and Ameritech came to agreement on issues surrounding directory listing ordering and inquiry. The following are the terms of that settlement:

Ameritech has agreed to incorporate the functionalities of its OSS interface and Ameritech Advertising Services interface so that CLECs can use a single Ameritech interface for all directory listing service orders types in June of 2001. Ameritech has committed to providing a single application-to-application interface to be used for all preordering directory listing inquiries no later than June of 2002. The intent of this functionality is to allow CLECs the ability to view directory listing information for all facilities-based end-users. Ameritech has committed to expand the functionality of the existing Ameritech Advertising GUI interface to give CLECs the ability to view directory listing information for facilities-based end-users belonging to any carrier no later than September of 2001. Ameritech's commitments in this regard are made with a recognition that Ameritech may be legally constrained by its contractual agreements with CLECs, which may restrict Ameritech's ability to provide access to certain CLECs' directory listings. Nevertheless, Ameritech has agreed to work with CLECs to address these contractual concerns, including, but not limited to, drafting an acceptable generic amendment to CLECs' interconnection agreements to address this concern.

This agreement should be incorporated into the terms of the Ameritech POR and the conclusion section of the HEPO should be revised accordingly. However, in the event the Commission declines to adopt this recommendation, or if the agreement between the CLECs and Ameritech dissolves for any reason prior to the Commission's final determination in this case, the CLEC reassert the positions contained in their verified comments and take exception to the HEPO consistent with those comments.